



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,037	10/23/2003	John Kevin Liles	2003-0131	6442

7590 03/09/2006
Robert F. Frijouf
Frijouf, Rust & Pyle, P.A.
201 East Davis Boulevard
Tampa, FL 33606

EXAMINER

MARSH, STEVEN M

ART UNIT	PAPER NUMBER
----------	--------------

3632

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,037

Applicant(s)

JOHN LILES

Examiner

Steven M. Marsh

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,5,7,9,11-14,17,18,20,22,23 and 37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,7,9,11-14,17,18,20,22,23 and 37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the fourth office action for U.S. Application 10/692,037 for a Wire Support and Method of Making filed by John Kevin Liles on October 23, 2003. Claims 1, 4, 5, 7, 9, 11-14, 17, 18, 20, 22, 23, and 37 are pending

Claim Rejections - 35 USC § 103

Claims 1, 4, 5, 7, 9, 11, 18, 20, 22, 23, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rieman in view of U.S. Patent 4,913,389 to McCracken. Rieman discloses a wire support with identical first and second one-piece wires (10 and 11). Each of the wires has a lower section (12 and 13), an upper section (15), and an intermediate section (between 12 and 14). The wires are twisted along the intermediate sections to form a plurality of helixes and spirally intertwined for providing an upright support, and the lower sections of the wires extend outwardly from the upright support, for insertion into the base surface to the mount the wire support. Each lower section has a lower region extending generally transverse to the upright support for enabling an operator to apply a force to the lower region, and each of the lower sections terminates in a lower distal area extending generally parallel to the upright supports, for facilitating insertion of the lower section into the base surface. The upper section of the wires extends outwardly from the upright support for engaging with the object to support the object relative to the base surface. The upper and lower ends of the intermediate section appear to have straight portions (right before the twists veer out into the upper and lower sections, respectively).

Art Unit: 3632

Rieman does not disclose an upper section that terminates in an upper distal area that extends generally parallel to the upright support for insertion into an object. McCracken disclose a stand configured to be driven into a surface for supporting an object relative to a surface. The stand has a lower section, an intermediate section that forms an upright support, and an upper section. The upper section has an upper region extending outwardly from the upright support and terminates in an upper distal area extending generally parallel to the upright support for supporting an object upright relative to the support surface. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided the upper section of Rieman, with portions that are parallel to the upright support as taught by McCracken, for the purpose of supporting an object upright relative to the support surface. Applicant claims limitations to the object/sheet material, but the object/sheet material is not positively recited in the claims, and therefore the limitations carry no patentable weight.

Claims 12 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rieman. Rieman does not disclose the specific diameters of the wire or the twist to length of the wires. However, those are each a matter of design preference that would have been obvious to one of ordinary skill in the art at the time of the present invention.

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rieman in view of U.S. Patent 6,258,420 B1 to Lehman. Rieman does not disclose a flexible material ribbon extending transversely along the intermediate section and extending between the first and second wires. Lehman discloses twisted

Art Unit: 3632

wires with flexible material ribbons (40) extending transversely between first and second wires for decorative purposes. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided ribbons between the wires of the stand taught by Rieman, as taught by Lehman, for the purpose of decorating the stand.

Response to Arguments

Applicant's arguments filed December 15, 2005 have been fully considered but they are not persuasive. Applicant argues that neither Rieman or McCracken teach one to insert the upper distal area of the wires in to the plurality of void areas of the object. However, as noted above, Applicant has not positively recited the object in the claim. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided the upper section of Rieman, with portions that are parallel to the upright support as taught by McCracken, for the purpose of supporting an object upright relative to the support surface.

Art Unit: 3632

In response to applicant's argument that one would have to combine the twisted wire support of Rieman with the metal flat crossbar of McCracken, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Art Unit: 3632

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (571) 272-6819. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.



Steven M. Marsh

March 3, 2006



RAMON O. RAMIREZ
PRIMARY EXAMINER